

1963

CONGRESSIONAL RECORD — SENATE

19285

The administration may be right in its skepticism about the future. But its renewed harping on the dangers of recession do not seem warranted. In fact, it is serving to discredit its reputation for responsible forecasting as well as the role it has played in prolonging the expansion.

PJC
FREEDOM OF INFORMATION

Mr. SIMPSON. Mr. President, the Professional Journalistic Society, Sigma Delta Chi, has today made public an exhaustive report prepared by its freedom of information committee.

The society found that freedom of information in the Federal Government is at the lowest ebb in history—a conclusion which comes as no great surprise to those of us who have questioned the administration's policies of truth suppression.

In language with which I completely concur, the society asserted that Federal departments are hiding behind claims of "confidential" information which has resulted in "spreading the blanket of secrecy over the records of Government and particularly over those records pertaining to spending of taxpayer funds." Sigma Delta Chi concluded further that Defense Department officials have created "an oligarchy of control" over news released from the Defense Department.

Every administration attempts to present itself in a favorable light, but the New Frontier has completely misused this logical prerogative with gestapo tactics, deliberate lies, as in the case of the TFX investigation, the Cuban crisis, and more currently, in the situation in Vietnam. Much of this is brought out in the Sigma Delta Chi report which is destined to prove a significant contribution to the principle of freedom of the press and public awareness of the activities of elected officials.

I compliment the society for the depth and scope of its report and for the cogency of its conclusions.

Mr. President, the report is quite lengthy, and accordingly, I would like to call my colleagues' attention to the first section in which are found comments on the Defense Department, "the Government lie," "the TFX plane controversy," "Sigma Delta Chi testimony in Congress," and "Cuba and Vietnam."

I ask unanimous consent that these excerpts, together with a news item from this morning's Washington Post, be printed in the CONGRESSIONAL RECORD at this point.

There being no objection, the excerpt and news article were ordered to be printed in the RECORD, as follows:

[From Report of the 1963 Sigma Delta Chi Advancement of Freedom of Information Committee]

PART I. THE FEDERAL GOVERNMENT

1. FREEDOM OF INFORMATION AT LOWEST EBB

President Kennedy had a lot of fine things to say about freedom of information in the Federal Government just before and right after his inauguration in 1961. But these fine resolutions have slowly eroded away during his nearly 3 years in office, and your committee must report that genuine freedom of information is at its lowest ebb today in the history of our Federal Government.

This can be summed up briefly in two sentences, as follows:

1. Secretary of Defense Robert S. McNamara and his public relations director, Arthur Sylvester, have created an oligarchy of control over the release of all news emanating from the Department of Defense and which led to its boast of "management of the news" in the Cuban crisis late in 1962.

2. All of the rest of Federal Government falls back on the mushy claims of "confidential" and similar excuses in spreading the blanket of secrecy over the records of government, and particularly over those records pertaining to the spending of the taxpayer funds.

On the other hand, the American people are being deluged today with more governmental propaganda than at any time in the history of our country. And the Department of Defense, both in the Pentagon and at the various military bases, is leading the way in this.

Webster's dictionary gives the definition of "oligarchy" as "despotic power exercised by a privileged class," and that exactly describes the approach of Secretary McNamara to freedom of information in the Department of Defense. The record shows clearly that he wants no dissent from his subordinates and that he is determined to institute rules to cut down on the possibility of any dissent arising or finding its way to the press.

Your committee is concerned about this for two reasons.

First, a democratic government always faces the great danger of usurpation of power by the military unless there is a constant restraint exercised by an informed public opinion. Thus far this year there have been several indications of the military's stretching its power, from behind its solid curtain of secrecy, into the domestic life of our Nation.

Second, the Department of Defense spends more than \$50 billion of tax funds a year and, of all departments of our Federal Government, its spending should be under the constant restraint of an informed public opinion to eliminate possible waste and corruption.

The rest of Federal Government, spending nearly another \$50 billion of tax funds a year, does this under the blanket of what your committee can only describe as "mushy secrecy." Here is the way virtually all of Federal Government utilizes "mushy secrecy" to disregard the right of the American people to know about their Government, taken from an actual case in 1963:

1. Late in May, a newspaper asked Federal offices in its community for certain legitimate information, not pertaining to national security. It was told that such information must come from the headquarters at Washington.

2. The newspaper immediately asked the Washington offices for this information.

3. On July 1, the newspaper received a letter from the Federal agency in Washington stating that the information was "confidential."

4. The newspaper then appealed to Representative Moss's House Subcommittee on Government Information and to the Congressmen who represented its district.

5. On July 26, Representative Moss wrote, after making inquiries of the Federal agency, that its policy was not to withhold information generally but only in certain individual cases.

6. On July 31, the Congressman from the district wrote the newspaper and enclosed three items of information released by the Federal agency, over 2 months after it had first informed the newspaper that the information requested was "confidential."

If there is any doubt of this general policy of "mushy secrecy" in our Federal Government, your committee recommends that

every newsman in our land try to seek out similar legitimate information from any Federal agency.

2. THE MAJOR PROBLEM

The Department of Defense unquestionably represented the major problem in the information field during the last year. Both the policies and the practices of the Defense Department should cause grave concern among those interested in the maximum freedom of information.

It should be made clear at the outset, that the objections are not with the proper use of measures to protect the national security of the United States within the law and properly drawn regulations. No responsible newspaper reporters or editors have suggested that the Defense Department, or any other governmental agency, abandon properly administered secrecy practices necessary for the national defense.

The objections are raised to policies and practices that have been devised and used for the purpose of stopping the normal flow of information from the Defense Department on matters that are not involved with the national security.

The pattern of the Pentagon in the last 3 years would appear to be designed to quash dissent, and to close up the avenues through which evidence of dissent normally finds its way to the press and to the public. This pattern would appear to be designed to keep a close supervision over press contacts with civilian and military personnel at the Pentagon to quiet those who might provide information contrary to the views and facts the politically appointed civilian secretaries wish to have presented.

The record shows that the Pentagon has in fact instituted policies to control press contacts at the Pentagon, and has released false and misleading information in connection with a variety of major controversies. This is the pattern:

1. In May 1961, testimony released by the Senate Armed Services Committee disclosed that Secretary McNamara made a statement indicating he favored less information for the public as well as misinformation on our military developments. The attitude expressed in that testimony might explain some later developments. McNamara testified:

"Why should we tell Russia that the Zeus development may not be satisfactory? What we ought to be saying is that we have the most perfect anti-ICBM system that the human mind will ever devise. Instead, the public domain is already full of statements that the Zeus may not be satisfactory, that it has deficiencies. I think it is absurd to release that kind of information."

Under criticism from Representative JOHN MOSS, Democrat, of California, Secretary McNamara issued a four-point statement on information policy that seemed to retreat from his position in his testimony. Moss had called the initial McNamara statement "a gross disservice" to the American people and declared it was "advocacy of a program of misinformation."

2. In February 1962, Defense Secretary McNamara used the arbitrary claim of "executive privilege" to prevent the Pentagon censors from testifying on the operations of the censorship program that had resulted in highly questionable pattern of deletions from the speeches of high-level military personnel. There was no claim that national security was involved in this withholding incident. The letter from President Kennedy to McNamara on February 8, 1962, appeared to be a further extension of the arbitrary claim of "executive privilege" that had been used by the Eisenhower administration to hide a broad range of scandalous conditions in the regulatory agencies, in the Defense Department, and in the foreign aid program.

19286

CONGRESSIONAL RECORD — SENATE

October 28

"I do not intend to permit subordinate officials of our career services to bear the brunt of congressional inquiry into policies which are the responsibilities of their superiors," President Kennedy said.

The Eisenhower administration's use of "executive privilege" sought to bar testimony from high-level officials of government. The Kennedy letter appeared to say that Congress could be barred from questioning low-level officials to go behind the broad general positions and self-serving declarations of heads of departments and their key aids.

3. During the crisis over Cuba in the fall of 1962, there was a wide range of complaints that misinformation was distributed by the Pentagon press office. There has not been sufficient documentation on these complaints to make a broad charge, or to pinpoint the responsibility for this misinformation. The Nation was in the midst of a crisis, and there is no doubt that mistakes were made by Government officials in the pressure of the crisis. It is also possible that there were some misunderstandings. However, there are some matters dealing with the Cuba crisis that are clear and premeditated efforts to limit access to information.

4. On October 27, 1962, during the Cuba crisis, Assistant Defense Secretary Sylvester issued a directive to control all press contacts at the Pentagon. That directive stated: "The substance of each interview and telephone conversation with a media representative will be reported to the appropriate public information office before the close of business that day. A report need not be made if a representative of the public information office is present at the interview."

It would be naive to accept the assurances of Sylvester and Secretary McNamara that the directive is for the purpose of making more information available in "an expeditious and equitable manner." Veteran Pentagon reporters, such as Mark Watson of the Baltimore Sun and Jim Lucas of the Scripps-Howard newspapers, comment that the Sylvester directive is a "gestapo" tactic. Their sharp criticism is echoed by almost every other military affairs reporter. Despite the criticism, McNamara and Sylvester refused to change the directive or withdraw it. (At the State Department, Assistant Secretary Robert Manning issued a memorandum that carried the same general view. However, he withdrew the memorandum after receiving complaints from a large number of State Department correspondents. He indicated he had only intended to use it during the emergency.)

President Kennedy has backed McNamara and Sylvester on the October 27 directive. The press complaints have subsided, and it would appear that this press policing device at the Pentagon will become permanent unless some new fury is raised on specific problems.

3. THE GOVERNMENTAL LIE

5. Shortly after the Cuba crisis, Assistant Secretary of Defense Sylvester boasted of the way the Kennedy administration had "managed the news" during the Cuba crisis. He followed this up with his infamous and controversial comment about the "inherent" right of the Government to lie when involved in a nuclear crisis. The full quotation from the transcript is as follows: "If we can talk to the general point, it would seem to me basic, all through history, that a government's right—and by a government I mean a people, since in our country, in my judgment, the people express, have the right to express, and do express every 2 and every 4 years, what government they want—that it's inherent in the Government's right, if necessary to lie to save itself when it's going up into a nuclear war. This seems to me basic."

Considerable controversy arose over the news stories dealing with Sylvester's speech.

Later Sylvester denied that he had ever said the Government had an "inherent" right to lie. When Sylvester was before the McClellan subcommittee in connection with the TFX warplane investigation, Senator KARL MUNDT, Republican, of South Dakota, asked him: "The question is that if you believe the Government has the right to lie to the people. You are speaking as a Government witness. I want to be sure that you don't carry that philosophy to the point of testifying before us under oath."

Sylvester answered: "You are making a quotation to me which was attributed to nobody, some faceless accuser which you are using. You have not quoted anything I have said."

MUNDT asked: "If you said you did not make it, that is one thing. I have read it a dozen times in the paper, that you made that statement. I am not quarreling with you about that point of view at this time."

Sylvester replied: "Obviously, no Government information program can be based on lies. It must always be based on truthful facts."

4. THE TFX PLANE CONTROVERSY

6. Sylvester had been called before the McClellan subcommittee for making what is now admitted to be a false, misleading, and erroneous statement in connection with the TFX warplane investigation. On March 8, 1963, Sylvester held a press briefing and in a critical commentary on the McClellan subcommittee members stated: "You will hardly get a judicial rendering by a committee in which there are various Senators with State self-interest where the contract goes. So far there is only one Senator I have seen on the committee, Senator MUSKIE, who hasn't got an interest in it."

When Sylvester stated that "there is only one Senator I have seen on the committee, Senator MUSKIE, who hasn't got an interest in it," Sylvester was charging that Chairman McCLELLAN and other members of the subcommittee had a State self-interest.

Under questioning, Sylvester admitted that he had no information to support this charge against other members of the subcommittee. Only two of the members—Senator HENRY JACKSON, of Washington, and Senator JACOB JAVRS, of New York—had a State interest in the contract and there was nothing devious or hidden about this.

Committee members concluded that Sylvester had engaged in loose handling of the truth in an effort to discredit the McClellan subcommittee probe of the \$6.5 billion TFX warplane contract.

7. Throughout the TFX investigations, the Pentagon released erroneous and misleading information. Also, high officials of the Defense Department refused to answer factual questions dealing with this multi-billion-dollar contract. Information was released indicating that Deputy Defense Secretary Roswell Gilpatric had served as a lawyer for the Boeing Co., and that this in some way balanced his affiliation as lawyer for General Dynamics in such a way that it canceled the possibility of any "conflict of interest."

When questioned by the McClellan subcommittee, Gilpatric admitted that he had not served as a lawyer for Boeing, but had only served as an unpaid witness on one occasion. The subcommittee developed testimony that Gilpatric's law firm of Cravath, Swaine & Moore had received \$300,000 in fees from General Dynamics, and Gilpatric had been the lawyer assigned to General Dynamics prior to becoming Deputy Defense Secretary in January 1961. Gilpatric refused to answer questions on the details of what he contended had been a total resignation from his law firm with complete severance when he joined the Defense Department. He refused to discuss the substantial sums of money he received from his law firm after

becoming Deputy Defense Secretary. He said that these were private as between him and his law firm. Defense Secretary McNamara also refused to discuss these matters involving the important details on the arrangements for Gilpatric to receive money after becoming the number two man in the Defense Department.

Navy Secretary Fred Korth refused to discuss the details of arrangements of loans his bank in Fort Worth, Tex., made to the General Dynamics Corp. in the fall of 1961. Korth, as president of the Continental National Bank of Fort Worth, Tex., approved the loans (identified only as being less than the \$600,000 limit on the bank) to General Dynamics.

In January 1962, Korth resigned as president of the bank, but retained the bank stock with a value of more than \$150,000. Then Korth took part in the discussions and decisions in the TFX warplane contract, and overruled the unanimous recommendations of his top naval officers and others and recommended that the contract go to General Dynamics.

Korth refused to tell reporters the amount of the loan to General Dynamics, or the circumstances surrounding the loan. He refused to tell reporters the value of his stock in the bank.

There was no national security question involved in the transactions between Gilpatric and his law firm, which still represented General Dynamics. There was no national security issue involved in the details of Korth's relations with the Continental National Bank of Fort Worth or in the details of the loan arrangement with General Dynamics.

Gilpatric and Defense Secretary McNamara refused to discuss whether these interests had been discussed, or what facts were made known to McNamara on Korth's and Gilpatric's interests.

5. SIGMA DELTA CHI TESTIMONY IN CONGRESS

On March 19, 1963, Representative Moss House Subcommittee on Government Information held a public hearing on the matter of management of the news in Federal Government. Witnesses who testified were Robert J. Manning, Assistant Secretary of State for Public Affairs; Arthur Sylvester, Assistant Secretary of Defense for Public Affairs; and members of the press, including Clark Mollenhoff, Washington correspondent for the Des Moines Register and Tribune and a member of your committee.

This report already has dealt with most of the matters discussed in the hearing. But in his testimony, Mollenhoff gave definitions of the four types of "management of the news" now practiced in Federal Government and your committee feels that this should be inscribed in the Record, as follows:

"Now, I think there is one thing that should be clarified here. There is an awful lot of talk in the press and in Congress on news management, without an effort to draw lines as between the different types of problems in this area. I want to very briefly just go over what I think are about the four types, because they have to be approached in different ways.

"The first would be the common news management, in which an administration puts out the information that is most favorable to it and then tries to make it a little difficult for you to get the other side of the story. This we fight to a degree all the time. I do not object to this too much, because that is part of the game—up to the point where you get the lies and the distortions, and at that point it is wrong.

"Also, such special directives as Sylvester's order of October 27 to control the press contacts at the Pentagon. This is an entirely different category. This is one that I think this committee and members of the press should fight in every respect until it is with-

1963

CONGRESSIONAL RECORD — SENATE

19287

drawn, because, if this stays intact as it is, we will have other agencies that will follow it in the future.

"The mere fact that this directive is not enforced does not mean anything, either. Remember that it is a directive, and it can be used against personnel in the Pentagon at any point that they see fit to use it.

"That means that it is a club in their hands.

"Now, they may not use it for long periods of time, but I think that we have to continue to harp on this subject until it is corrected.

"The third area is the misuse of military security classifications to cover up mistakes of judgment, malfeasance, incompetence, and so forth.

"We have all run across many cases in this category.

"Then, fourth, and the one that I consider to be the most important, is the one of executive privilege.

"This committee has a great record relative to the abuses in this area, and there is no need to go into any more detail than to merely state that this is a claim of an inherent right by the executive branch to pull down the secrecy curtain at any point not only on the Congress, not only on the press, but on the Congress and the General Accounting Office.

"And when this administration took power, there were indications that it would not use executive privilege. There were a good many statements that it would not be used.

"Since then, it has been used. It has been drawn down a little bit by a statement by the President that he would not allow it to be used as it was used under the Eisenhower administration, by every individual in the whole executive branch of the Government. However, I am going to have to watch that in operation for some period of time before I have any great confidence that it will not take place again."

6. CUBA AND VIETNAM

Your committee took note of:

1. The international agreement, through an exchange of secret letters between President Kennedy and Premier Khrushchev, that led to the removal of the Russian long-range missiles from Cuba.

2. The great obstacles faced by American newsmen in their attempts to report U.S. participation in the undeclared war against the Communists in Vietnam.

Details of the secret international agreement between Kennedy and Khrushchev over removal of the Soviet missiles from Cuba never have been made public.

Immediately after the crisis, French newspapers carried stories, based on information from their government, that the United States had agreed to dismantle our missile bases in Turkey and Italy in return for the Soviet dismantling in Cuba.

This was denied by American Government spokesmen, yet within a few weeks the United States did dismantle its missile bases in Turkey and Italy, and it was announced that American defense in those areas against the communistic threat would be left to our nuclear submarines.

Meanwhile, on July 3, it was disclosed that no less than 40 secret letters and messages had been exchanged in a running communication between Kennedy and Khrushchev. One newspaper reported these letters as the "Government's most carefully guarded secret," and quoted a U.S. Senator, who insisted that his name be withheld, as saying: "I confess that I'm a little shocked to learn the great volume of these exchanges. What are they writing about at such great length, if not plans for serious negotiations on subjects affecting the entire Nation's security?"

Your committee realizes that it is almost impossible to conduct international negotiations in a fish bowl, but at the same time it sincerely feels that the secret agreement over

removal of Soviet missiles from Cuba and the 40 secret letters and messages between the heads of the American and Soviet Governments are absolutely contrary to the principles of free government.

This is particularly true in the face of the fact that these secret communications undoubtedly dealt with subjects affecting the well-being of free American citizens and perhaps even their lives. Certainly the American people are entitled to a complete and accurate report on any international agreement relating to the encroachment of communism 90 miles from our shores, and likewise they also are entitled to a white paper or other official report from Washington on secret negotiations between their elected President and the chief of the communistic dictatorship.

What is taking place in our undeclared war against communism in Vietnam, which is costing both American lives and considerable tax dollars, is even more confusing.

On June 23, American newspapers reported that U.S. servicemen on duty in South Vietnam were being instructed to avoid "gratuitous criticism" and to give a more positive picture of the war to American reporters.

In its Log of July 4-11, the Associated Press gave details of how Vietnamese secret police pummeled, knocked down, and kicked American reporters and smashed their cameras.

On July 27, Editor & Publisher reported on the efforts of the South Vietnam Government to curtail the international press covering the feud between the Buddhists and the Diem government, and said that Vietnamese nationals employed by the foreign press had been threatened with prison.

Here again your committee sincerely feels that all of this is absolutely contrary to the principles of free government. The American people, called upon to fight an undeclared war in the jungles of the Far East, deserve complete and factual information from day to day and if the American Government officials in Vietnam are not supporting the American reporters, as has been reported, then our Government at Washington is obligated to step in and to give both cooperation and protection to representatives of the free American press.

[From the Washington (D.C.) Post,
Oct. 28, 1963]

PENTAGON NEWS CONTROL SCORED

CHICAGO, October 27.—Americans have been deliberately deceived and kept in ignorance about matters affecting security and use of taxes by politicians who have kept information at "the lowest ebb in history," Sigma Delta Chi, professional journalistic society, said today.

The 60-page report of the society's freedom of information committee leveled heaviest criticism at the Defense Department. It said Defense Secretary McNamara and Assistant Defense Secretary for Public Affairs Arthur Sylvester have created "an oligarchy of control" over news.

The committee said it was not objecting to "proper use of measures to protect the national security of the United States."

NEVER MADE PUBLIC

"The pattern of the Pentagon in the last 3 years would appear to be designed to quash dissent and to close up the avenues through which evidence of dissent normally finds its way to the press and to the public," it said.

The committee said "the international agreement, through an exchange of secret letters between President Kennedy and (Soviet) Premier Khrushchev over removal of the missiles never has been made public."

It was disclosed that "no less than 40 secret letters and messages had been exchanged" between the two leaders during the crisis, the report said.

The critics acknowledged that negotiations cannot be conducted "in a fish bowl," but said that the American people were entitled "to a white paper or other official report from Washington on secret negotiations between their elected President and the chief of the Communist dictatorship."

The committee, headed by V. M. Newton, Jr., managing editor of the Tampa (Fla.) Tribune, urged passage of a law requiring all Federal Government records "other than those of a security nature" be opened constantly to public inspection.

EXCUSES DENIED

"All of the rest of Federal Government falls back on the mushy claims of 'confidential' and similar excuses in spreading the blanket of secrecy over the records of government, and particularly over those records pertaining to the spending of the taxpayer funds," the report said.

Congressional freedom of information suffered its "worst year of the last decade" and 39 percent of all congressional committee meetings were held in closed session during the first 3 months of 1963, the society said.

The number of secret meetings was "6 percent higher" than 1962, said the report, and committees with the highest secrecy rate were the Senate Armed Services, 85 percent closed, and House Foreign Affairs, 74 percent closed.

ADMINISTRATION IMMIGRATION PROPOSAL

Mr. YOUNG of Ohio. Mr. President, no provision of any national law is more distasteful to millions of Americans or to the peoples of many nations of the world than the concept of judging a man's worth for immigration to our country on the basis of his place of birth or the racial ancestry of his parents. This is contrary to the great traditions of this Nation. As a people we are morally committed to seek a national policy which will make real the simple truth of the words of St. Paul:

God * * * hath made of one blood all nations of men for to dwell on the face of the earth.

Although most Presidents since Woodrow Wilson have called upon the Congress to take corrective action, President Kennedy's proposal to abolish the national origins quota system is the first time that a specific bill has been proposed to the Congress by a President. The law he seeks would squarely meet national needs and also be pleasing to foreign nationals. It recognizes that each immigrant has a special worth because of his potential contribution to the total manpower of our country and that he should be judged on his individual ability.

The bill will provide flexibility in refugee policy, remove offensive Asiatic restrictions, and increase basic quotas for many new nations. Over a 5-year period it would eliminate all quotas based on national origin. The total annual quota would be raised only slightly from the present 154,000 to an estimated 164,000. One important objective is for the reunification of families now separated by our outmoded immigration laws. It is with a sense of privilege that I cosponsored the legislative proposal to carry out the recommendations of our President. Let us remember at all times, we